

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PHILIP W. NELSON,

Plaintiff,

v.

CONSOL ENERGY,

Defendant.

12cv0352

ELECTRONICALLY FILED

Order of Court re: Motion to Compromise and Settle Claims (doc. no. 27)

AND NOW, this 9th day of October, 2012, after a comprehensive review of Plaintiff's Motion to Compromise and Settle Claims (doc. no. 27), in addition to the documentation requested by Text Order of this date, IT IS HEREBY ORDERED that:

1. The Court finds Plaintiff's Motion to Compromise and Settle (doc. no. 27) does not currently meet the requirements set forth in LCvR 17.2(B). In particular, the Court finds that the Motion lacks the following essential elements: (1) "the elements of claimed damage, including a statement of amounts already paid to or on behalf of the seaman;" (2) "a statement of services rendered by counsel;" (3) "the expenses incurred or to be incurred by counsel;" and (4) "copies of written statements of those physicians who have treated or examined the seaman setting forth the nature of the injuries and the extent of recovery . . ."

2. The Court further finds the Settlement Agreement and Release (doc. no. 27-1) does not comply with LCvR 17.2(D). In particular, the Court finds that "the balance of the fund [must be] paid to the seaman" and not paid to his counsel or to his counsel and seaman.

3. As the documents filed to date will not allow the Court to adequately "examine the seaman under oath in order to insure that the seaman's rights are fully protected and that he

comprehends the nature of the action being taken by him and on his behalf,” Plaintiff’s Motion to Compromise and Settle Claims (doc. no. 27) is hereby STRICKEN.

4. Counsel shall file a revised Motion to Compromise and Settle Claims and Settlement Agreement and Release that fully complies with LCvR 17.2, on or before October 11, 2012.

5. If local counsel seeks to appear on behalf of Plaintiff, he or she shall enter his or her appearance in this case on or before October 11, 2012.

s/ Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: All ECF Counsel of Record